posal of the defendant until after the unreasonable delay occasioned by the attempt to get its counter-proposal accepted, there was no legal acceptance of the defendant's proposal, and no contract was consummated between the parties. *United States* v. *P. J. Carlin Construction Company* (C. C. A., 1915), 224 Fed. 859.

The first point of the decision in this case, viz., that the fact that a future formal written contract is contemplated will not prevent the agreement reached through preliminary correspondence and writings from being held binding, is the generally accepted doctrine. *Sanders* v. *Pottlitzer Bros. Fruit Co.*, 144 N. Y. 209, 39 N. E. 75, 29 L. R. A. 431; *Drummond* v. *Crane*, 159 Mass. 577, 23 L. R. A. 707; *Blaney* v. *Hoke*, 14 Ohio St. 292; *Thomas* v. *Dering*, 1 Keen 729; *Whitted & Co.* v. *Fairfield Cotton Mills*, 210 Fed. 725. It has been held, however, that the fact that the parties contemplated a formal agreement is some evidence that they did not intend to bind themselves until the agreement was reduced to writing. *Mississippi & D. Steamship Co.* v. *Swift*, 86 Me. 248, 29 Atl. 1063; R. C. L., Vol. 6, p. 619. See also *Wharten* v. *Stoutenburgh*, 35 N. J. Eq., 266. The rule, of course, is designed to give effect to the intention of the parties, and it is therefore all-important that the facts should clearly show that the parties had arrived at a complete understanding, and that the embodying of that understanding in a formal written instrument was not a part of the contract itself; for, manifestly, if the writing of the contract is a part of the bargain, the court cannot make a different contract for the parties by applying the rule in question. *Lyman* v. *Robinson*, 14 Allen 242, 254. In view of the danger of thus forcing a binding contract upon the parties deduced from separate writings and correspondence, when they had not contemplated being bound until the written contract was formulated, the court in the instant case hints that this rule should not be extended to verbal agreements which are subsequently to be reduced to writing. Following a similar statement in *Sanders* v. *Fruit Co.*, supra, the court says:—"When parties enter into a mere verbal agreement, with the understanding that it shall be finally reduced to writing as the evidence of the terms of the contract, it may be that nothing is binding upon either party until the writing is executed." While this limitation has not, so far as investigation reveals, been authoritatively adopted, it would seem a desirable safeguard against the abuse of the rule under discussion, and the fact that it is mentioned in these cases would signify a leaning of the courts toward its adoption.

CORPORATIONS—LIABILITY OF STOCKHOLDERS AS PARTNERS.—A, B and C, having determined to form a corporation, contracted through A as agent, to pave a city street and a street railway company's right of way. Subsequently, A contracted with plaintiff to purchase of it the paving blocks necessary to pave the right of way. The contract with the city was entered into before any steps had been taken to incorporate; the one with the railway company after incorporation, but before organization; and the one with plaintiff after organization. None of these contracts was signed in the corporate name, the signature on each being, "A & B, by A." *Held*, that A and

B were not liable as partners. *United States Wood Preserving Co.* v. *Lawrence et al.* (Conn. 1915), 95 Atl. 8.

It seems that the plaintiff would have been justified in assuming that the defendants were partners, if, as it alleged, it entered into the contract with them, relying entirely upon the letter and nature of the two prior contracts. The corporation, in a suit against it for the specific performance of either of those contracts, could have interposed numerous defenses. As defenses to such a suit instituted by the city the corporation could have insisted, first that it had no legal existence when the contract was made, and that said contract was nothing more than a promoter's contract, and therefore non-enforceable. *Davis & Rankin Bldg. Co.* v. *Hillsboro Creamery Co.*, 10 Ind. App. 42, 37 N. E. 549; *Gent.* v. *Mfgrs' & Merchants' Mutual Ins. Co.*, 107 Ill. 652; *Holyoke Envelope Co.* v. *United States Envelope Co.*, 182 Mass. 171, 65 N. E. 54. Secondly, the corporation could have maintained that the contract was not made with it, but with A & B, partners. *Barnet Line* v. *Blackmar*, 53 Ga. 98; *Hess* v. *Ferris*, 157 Ill. App. 37; *Harris* v. *Crary*, 67 Tex. 383, 3 S. W. 316; *Stearns* v. *Haven*, 14 Vt. 540; *Cirkel* v. *Croswell*, 36 Minn. 323, 31 N. W. 513; *McLowan* v. *American Pressed Tan Bark Co.*, 121 U. S. 575, 7 Sup. Ct. 1315. This second defense, together with the additional defense that a corporation, although formally incorporated, can transact no business until completely organized, could have been interposed to defeat a similar suit by the railway company. *Hart* v. *Salisbury*, 55 Mo. 318; *Owen* v. *Shepherd*, 19 U. S. App. 336; *Walton* v. *Oliver*, 49 Kan. 107, 33 Am. St. Rep. 355; 4 AM. & ENG. ENCY. OF LAW 197; BOONE, CORPORATIONS, § 113. On the effect of defective organization, see 13 MICH. L. REV. 271.

CORPORATIONS—PLEDGE OF STOCK.—The secretary of a corporation, being a debtor thereof, transferred to it, as security for a note, certain certificates of stock issued by the company and owned by him. Subsequently, he became indebted to defendant, whereupon he stole the certificates and delivered them to defendant as security for his note. *Held*, that the company was entitled to recover possession of the shares. *The Yamato* v. *The Bank of Southern California* (Calif. 1915), 149 Pac. 826.

The pledgee of stock, who holds the same without notice of prior equities, has an equitable title, which, as to third persons, is perfect, even though his name is not registered on the corporate books. *St. Louis Stoneware Co.* v. *Partridge*, 8 Mo. App. 580; *Baldwin* v. *Canfield*, 26 Minn. 43, 1 N. W. 261; *Appeal of Early*, 89 Pa. St. 411; *Ebry* v. *Guest*, 94 Pa. St. 160; *Plymouth Bank* v. *Bank of Norfolk*, 27 Pick. (Mass.) 454; *Rio Grande Cattle Co.* v. *Burns*, 82 Tex. 50, 17 S. W. 1043; *Parker* v. *Bethel Hotel Co.*, 96 Tenn. (12 Pickle) 252, 34 S. W. 209; *Port Townsend Nat. Bank* v. *Port Townsend Gas and Fuel Co.*, 6 Wash. 209, 34 Pac. 155; *Factors and Traders Ins. Co.* v. *Marine Drydock and Shipyard Co.*, 31 La. Ann. 149. Prima facie, the holder of a certificate of stock, properly indorsed, is the owner thereof (*Walker* v. *Detroit Transit Ry. Co.*, 47 Mich. 338, 11 N. W. 187); but such a certificate not having any of the qualities of negotiable paper, evidence may be adduced to prove that he is unlawfully detaining the shares of a person